

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matter of

Implementation of Sections of the
Cable Television Consumer Protection
and Competition Act of 1992:
Rate Regulation

Leased Commercial Access

MM Docket No. 92-266

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CS Docket No. 96-60

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**COMMENTS ON INFORMATION COLLECTION REQUIREMENTS OF
THE NATIONAL CABLE TELEVISION ASSOCIATION, INC.**

The National Cable Television Association, Inc. ("NCTA"), by its attorneys, hereby files these brief Comments regarding the information collection requirements of the Federal Communication Commission's proposed commercial leased access rules. Section 76.970(e) establishes procedures for cable operators to follow in responding to requests from leased access applicants. NCTA is not objecting here to the general obligation to disclose information about leased access rates. However, certain aspects of the proposed rule serve little or no benefit to users, are unnecessarily burdensome to cable operators, and should be modified.

The requirement that cable operators respond to requests for leased access information made over the telephone is entirely unnecessary and should be changed. There is nothing inappropriate with cable operators requiring that leased access applicants submit their

requests in writing. No applicant with serious aspirations to program all or part of a cable channel will be dissuaded by this simple requirement. It is reasonable that cable companies would want such requests to be documented in writing. A company adopted policy requiring that informational requests be in writing would minimize frivolous requests. It also would minimize the likelihood that a serious leased access request might inadvertently go unanswered.

Major cable companies field thousands of telephone calls each year, and it is often difficult to determine precisely what the caller wants. In the "access" arena, for example, callers frequently confuse PEG access with commercial leased access. If telephone calls are permitted to trigger formal commercial leased access rights, there doubtlessly will be numerous disputes as to the timing and content of oral exchanges between leased access applicants and cable operators. Many of these disputes inevitably will find their way to an already overburdened Commission. Some of this confusion may exist even when the inquiry is put in writing, but this simple step will greatly facilitate an orderly handling of leased access requests and allow operators to document their regulatory compliance.

The requirement that a cable operator disclose how much leased access capacity is available to each applicant is also unnecessarily burdensome, particularly in the case of a large multiple system owner. The number of available leased access channels will change constantly, on a system-by-system basis. Accurately monitoring this information will be extremely difficult. More importantly, leased access applicants have no need for this information. They only need to know whether a channel is available for their use. NCTA proposes that cable operators be required only to identify whether each system has **any** leased access capacity available. This information would be far easier for cable operators to

maintain and should adequately fulfill the applicants' need to determine whether leased access launch on a particular system is feasible.

Finally, the requirement that cable operators respond to information requests from leased access applicants within seven business days imposes an unnecessarily tight timeframe on cable operators. While the FCC understandably wants cable operators to respond to requests in a reasonable timeframe, it would be difficult for cable operators, confronted with a host of other business and regulatory obligations, to consistently and accurately respond within this timeframe. The seven day rule would require a substantially faster turnaround than generally observed in the programming arena, where negotiations typically extend over many months. More importantly, there is no offsetting utility to the seven day rule. It is extremely unlikely that leased access applicants would need the requested information in this very short interval. NCTA is proposing a very modest change -- the establishment of a fifteen business day response deadline. This slightly relaxed deadline would afford cable operators slightly more administrative flexibility and still amply serve leased access applicants.

CONCLUSION

For the foregoing reasons, NCTA requests that the Commission modify its proposed information collection requirements in the above-referenced proceeding.

Respectfully submitted,

The National Cable Television Association, Inc.

By: 

Steven J. Horvitz
COLE, RAYWID & BRAVERMAN, L.L.P.
1919 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006
(202) 659-9750

Its Attorneys

Daniel L. Brenner
NATIONAL CABLE TELEVISION ASSOCIATION, INC.
1724 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 775-3664


May 14, 1996

CERTIFICATE OF SERVICE

I, Nichele Rice, do hereby certify that on this 14th day of May, 1996, a true and correct copy of the foregoing "COMMENTS ON INFORMATION COLLECTION REQUIREMENTS OF THE NATIONAL CABLE TELEVISION ASSOCIATION, INC." has been sent by United States Mail, First Class Postage Prepaid, to the following:

Dorothy Conway
Federal Communications Commission
Room 234
1919 M Street, NW
Washington, D.C. 20054

Timothy Fain
OMB Desk Officer
10236 NEOB
725-17th Street, NW
Washington, D.C. 20503


Nichele Rice